

MUTUAL NONDISCLOSURE AGREEMENT

THIS AGREEMENT is entered into by and between Touche  
(hereinafter "Consultant"), a Kansas  
company, having a place of business at  
15320 College Blvd. Overland Park KS 66219, and TON  
SERVICES INC. (hereinafter "TON"), a Utah corporation, having a place of  
business at 1206 West 21st  
Street, Ogden, Utah 84401.

WITNESSETH:

WHEREAS, Consultant has information relating to its proprietary software systems and related consulting services which Consultant considers to be proprietary; and

WHEREAS, TON has information relating to its plan to develop a system to provide certain routing, load matching, and other services to carriers and suppliers, which plan TON considers to be proprietary (the development of such proposed system being hereinafter referred to as the "Program"); and

WHEREAS, Consultant and TON are desirous of exchanging information for purposes of evaluating whether the use of Consultant's products by TON in connection with its proposed system would be advantageous; and

WHEREAS, each of the parties wish to have its proprietary information protected from unauthorized use, reproduction, or disclosure;

NOW, THEREFORE, the parties hereto agree as follows:

1. Each party agrees that it will protect from unauthorized use, reproduction, and disclosure and will not disclose to any person outside its respective company or to any person within its respective company not having a need to know for the purposes of this agreement and will not use or reproduce, except for the purposes of this agreement, any information:

(a) which is disclosed hereunder to such party in writing and is designated by an appropriate stamp, marking, or legend thereon to be of a proprietary nature to the disclosing party; or

**EXHIBIT**

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(b) which is orally or visually disclosed to such a party and is identified at time of disclosure as being proprietary to the disclosing party; provided that, within thirty (30) days of such oral or visual disclosure, a written notice is given specifically identifying such orally or visually disclosed proprietary information.

IT IS NOT CONTEMPLATED THAT EITHER PARTY WILL DELIVER OR DISCLOSE COMPUTER SOFTWARE IN ANY FORM HEREUNDER; IN THE EVENT SUCH DISCLOSURE OR DELIVERY IS NECESSARY, APPROPRIATE LICENSE AGREEMENTS SHALL FIRST BE EXECUTED BY THE RECIPIENT.

2. Each party agrees to take appropriate action in accordance with paragraph one above to provide for the protection, safekeeping, and restricted use, reproduction, and disclosure of proprietary information received under this agreement.

3. Neither party shall be liable for disclosure of any such proprietary information if the same is disclosed by the receiving party with the prior written approval of the originating party.

4. Notwithstanding the earlier termination of, or expiration of the term of, this agreement, proprietary information received hereunder shall be protected by the receiving party as required by this agreement for a period of five (5) years from the date of receipt thereof.

5. In the event and to the extent that proprietary information received under this agreement: (i) is or becomes available without breach of this agreement; (ii) was, and can be shown to have been, known to the receiving party at the time of its receipt hereunder from the other party; (ii) is received by the receiving party from a third party without breach of this agreement; or (iv) is or can be shown to have been independently developed by employees of the receiving party not having access to such proprietary information, the receiving party shall not be liable for disclosure of such publicly available, known, third-party disclosed, or independently developed information.

6. The receiving party shall immediately notify the disclosing party in the event it discovers the loss of unauthorized disclosure of any proprietary information of the disclosing party received under this agreement and shall take all reasonable steps to retrieve and prevent further unauthorized disclosure of such proprietary information.

7. Nothing contained in this agreement shall be construed as granting or conferring any rights by license or otherwise in any proprietary information disclosed under this agreement.

8. The respective addresses for each party to which all correspondence and notices hereunder are to be sent are those set forth at the beginning of this agreement. The contact persons to who the correspondence is to be addressed are:

For Consultant: \_\_\_\_\_

For TON: Joe Kelley

Each party may change its respective address or point of contact by delivering a written notice thereof to the other party.

9. This agreement is not intended to, and shall not, constitute, create, give effect to, or otherwise recognize a joint venture, partnership, or formal business entity of any kind. The rights and obligations of the parties shall be limited to those expressly set forth herein. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both parties. Each party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever, and neither party shall have any authority to bind the other party except as specifically set forth herein.

10. This agreement shall become effective on the date on which it is signed by the last of the parties hereto to sign, and the agreement shall expire one (1) year thereafter; at which time, all proprietary information received hereunder (and any copies thereof) shall be returned to the disclosing party unless a different arrangement has been entered into between the parties in writing. Expiration of the term of this agreement, however, shall have no effect on the obligations imposed on the parties with respect to the protection of proprietary information received hereunder for the full period of time required by paragraph four of this agreement.

11. This is the entire agreement between the parties concerning the exchange and protection of proprietary information relating to the Program, and this agreement supersedes any prior written or oral agreements relating thereto and may not be amended or modified except by subsequent agreement in writing signed by a duly authorized officer or representative of each party.

TON/Consultant

12. Each signatory, by signing below, certifies that he or she has authority to bind to this agreement the respective party for which he or she signs.

IN WITNESS WHEREOF, each party hereto has caused this agreement to be duly executed in duplicate original by its respective duly authorized representative as follows:

Touche  
Consultant

TON SERVICES INC.

By [Signature]  
Title Gen. Mgr.  
Date Sept. 2, 1992

By [Signature]  
Title Gen. Mgr.  
Date Sept 2, 1992

TON/Consultant